

**COMMISSIONER OF THE TENNESSEE
DEPARTMENT OF COMMERCE & INSURANCE**

IN THE MATTER OF:

SECURITIES DIVISION,
Petitioner,

v.

FRANK KUFROVICH,
Respondent.

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Docket No. 12.06-004036J

*******O R D E R*******

This order is an initial order rendered by an administrative judge with the Administrative Procedures Division.

The initial order is not a final order but shall become a final order unless:

1. A party files a written appeal or petition for reconsideration with the Administrative Procedures Division no later than May 6, 1999; OR
2. The agency files a written notice of review with the Administrative Procedures Division no later than May 6, 1999.

You must file the appeal, petition for reconsideration, or notice of review at the following address: **Administrative Procedures Division, Suite 1700, James K. Polk Building, Nashville, TN 37243-0307.**

Please consult Appendix A, affixed to the initial order, for notice of appeal procedures. If you have any further questions, please call the Administrative Procedures Division, (615) 741-7008 or 741-2078.

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ORDER

This matter was heard on January 26, 1999, before Charles C. Sullivan II, an Administrative Judge assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Commerce & Insurance in Nashville, Tennessee. Mr. G. Everett Sinor, Jr., a Staff Attorney for the Securities Division, represented the State. The Respondent, Frank Kufrovich, was not present and not represented by counsel.

The State produced a return receipt card to establish that the Respondent received notice of the hearing date and charges against him on or about October 19, 1998, at a correctional facility in Taft, California. The Securities Division obtained its information about the Respondent's whereabouts from personnel at a former address at a correctional facility in North Carolina. The record does not reflect that Mr. Kufrovich has responded in any manner to the charges.

It appearing that the Respondent received adequate notice of the hearing and charges in this matter and made no attempt to respond to the charges, the

Court found Mr. Kufrovich in default and allowed the matter to proceed as an uncontested case.

NOTICE OF DEFAULT

NOTICE IS HEREBY GIVEN THE PETITIONER THAT HE HAS BEEN HELD IN DEFAULT FOR HIS FAILURE TO APPEAR FOR A HEARING ON THE MERITS AFTER RECEIVING ADEQUATE NOTICE. T.C.A., § 4-5-309. PETITIONER HAS TEN (10) DAYS FROM THE EFFECTIVE DATE OF THIS ORDER TO REQUEST THAT THIS FINDING OF DEFAULT BE SET ASIDE. THIS REQUEST MUST BE RECEIVED IN THE OFFICE OF THE SECRETARY OF STATE, ADMINISTRATIVE PROCEDURES DIVISION, SUITE 1700, JAMES K. POLK BLDG., NASHVILLE, TENNESSEE 37243-0307, WITHIN THAT TEN (10) DAY PERIOD. THE REQUEST TO HAVE THE FINDING OF DEFAULT SET ASIDE SHOULD INCLUDE THE REASONS TO JUSTIFY THE PETITIONER'S FAILURE TO PARTICIPATE. IF PETITIONER GIVES SUFFICIENT REASONS, THE ORDER MAY BE SET ASIDE AND A NEW HEARING SCHEDULED. IF THE PETITIONER DOES NOT REQUEST THE DEFAULT TO BE SET ASIDE OR OTHERWISE APPEAL THE ACCOMPANYING INITIAL ORDER, THEN THE INITIAL ORDER WILL BECOME A FINAL ORDER SUBJECT TO COURT REVIEW. ANY QUESTIONS REGARDING THIS NOTICE OF DEFAULT OR THE STEPS NECESSARY TO HAVE IT SET ASIDE SHOULD BE

SUBMITTED TO THE ADMINISTRATIVE JUDGE SIGNING THIS ORDER BY LETTER OR BY TELEPHONING (615) 741-7008.

This matter became ready for consideration on January 26, 1999. The Securities Division seeks revocation of the Respondent's state registration as a securities agent because of his conviction of two (2) federal felonies and his untimely and false reporting of those convictions. Based upon the record of this case, including the testimony of witnesses, the registration of Frank Kufrovich should be REVOKED. This decision is based upon the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Financial West Group [hereinafter Financial West] is a business entity with its principal place of business at 2663 Townsgate Road, Westlake, California 91361. Financial West is currently registered with the Tennessee Securities Division of the Department of Commerce and Insurance [hereinafter Division] as a broker-dealer, having been so registered since May 3, 1995.

2. Mr. Frank Kufrovich was registered with the Division as an agent of Financial West from May 8, 1995, through September 15, 1998, at which time Financial West terminated his employment.

3. On or about July 9, 1997, a federal grand jury in the United States District Court for the District of Connecticut indicted Mr. Kufrovich on two (2) counts: interstate communications to entice a juvenile to engage in illegal sexual acts (18 U.S.C., § 2422(b)); and traveling interstate with the intent to engage in

sex with a juvenile (18 U.S.C., § 2423(b)). Both of these violations are felonies under the federal statutes.

4. On or about June 10, 1998, Mr. Kufrovich pled guilty on both counts, and his sentence included 18 months confinement in a federal prison facility. Initially confined at a federal facility operated by the Wachenhut Corporation in Butler, North Carolina, Mr. Kufrovich was later confined at a facility in Taft, California, as the result of a transfer to be near a critically ill parent.

5. On August 9, 1998, Mr. Kufrovich amended his Form U-4 with the Central Registration Depository for those involved in the securities industry and disclosed the criminal convictions. While Mr. Kufrovich initially pled not guilty following his indictment of July 7, 1997, he made no amendment to his securities registration documents until after pleading guilty and receiving the sentence of the court on June 10, 1998.

6. When an individual applies for registration in the securities industry, he swears that he has read and understands the items and instructions on the Form U-4, and that the answers (including attachments) are true and complete to the best of his knowledge. The applicant also agrees to update the form by causing an amendment to be filed on a timely basis whenever changes occur to answers previously reported. These amendments need to be made within a reasonable amount of time, and, from the testimony, the regulatory benchmark for "reasonable" is 30 days.

7. Mr. Kufrovich's August 9, 1998, amendment to his U-4 Form was misleading and failed to clearly disclose that he was then residing in a federal facility. He disclosed on the amended U-4 Form that he was involved in a criminal proceeding and that he had agreed to a "plea bargain." Mr. Kufrovich's disclosure, however, was misleading by stating that he was "required to reside for 76 weeks at a Wachenhut Corp. Facility. No license suspension or revocation of any kind." There was no disclosure that his residential arrangements were a prison sentence from his conviction (a bargained for plea of guilty). The information that the Respondent provided on his amended U-4 Form was submitted over a year after he was indicted in Connecticut and two (2) months after his conviction.

CONCLUSIONS OF LAW

1. T.C.A., § 48-2-112(a)(1) & (2)(C), states that the Commissioner may by order deny, suspend or revoke any registration under the Act if the Commissioner finds that the order is in the public interest and necessary for the protection of investors and that the registrant has been convicted within the past ten (10) years of any misdemeanor involving a security or any aspect of the securities business or any investment-related business, or any felony.

The Respondent was convicted of two (2) felony counts on June 10, 1998. While such conviction is not directly related to any aspect of the securities business, such conviction reflects negatively upon the securities industry and affects the public's confidence in securities agents. It is in the interest of the public and for the protection of investors to remove securities agents from the securities

business when criminal conduct projects a negative and dishonest perception of the industry.


2. Department of Commerce & Insurance Rules 0780-4-1-.04(4)(a)(4) and 0780-4-1-.04(4)(b) adopt Form U-4, Uniform Application for Securities Industry Registration or Transfer, and the instructions contained therein.

3. T.C.A., § 48-2-112(a)(1) & (2)(G), states that the Commissioner may by order deny, suspend or revoke any registration under the Act if the Commissioner finds that it is in the public interest and necessary for the protection of investors and that the registrant has engaged in dishonest or unethical practices in the securities business.

Based upon the finding that Mr. Kufrovich made untimely and misleading statements in his amended Form U-4, he has engaged in dishonest and unethical practices. It is in the public interest and for the protection of investors to remove securities registrants from the securities business when they cannot be relied upon to fulfill honestly and ethically their reporting obligations to the industry's regulatory agencies.

4. It is therefore ORDERED that the registration of Frank Kufrovich be REVOKED.

This Initial Order entered and effective this 26th day of April 1999.


Charles C. Sullivan II
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State this 26th day of April 1999.

Charles C. Sullivan II

Charles C. Sullivan II, Director
Administrative Procedures Division

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon counsel and all interested parties by delivering same to them at their address of record by placing a true and correct copy of same in the United States mail, postage prepaid.

This 26th day of April, 1999.

Charles C. Sullivan II

Administrative Procedures Division
Office of the Secretary of State